

## HOUSE BILL NO. 139

INTRODUCED BY D. GALLIK

BY REQUEST OF THE DEPARTMENT OF MILITARY AFFAIRS

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING PROVISIONS REGARDING RULES AND REGULATIONS OF THE MONTANA NATIONAL GUARD; ADOPTING THE MOST RECENT APPLICABLE FEDERAL MILITARY LAWS, INCLUDING THE UNIFORM CODE OF MILITARY JUSTICE; CLARIFYING THE GOVERNOR'S AND THE ADJUTANT GENERAL'S AUTHORITY TO PRESCRIBE RULES AND REGULATIONS; AND AMENDING SECTIONS 10-1-104 AND 10-1-105, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 10-1-104, MCA, is amended to read:

**"10-1-104. Federal regulations to govern.** (1) Federal laws and regulations, forms, precedents, and usages relating to and governing the armed forces of the United States and the national guard, as in effect on October 1, ~~2003~~ 2005, insofar as they are applicable and not inconsistent with the constitution and laws of this state or with a rule or regulation adopted pursuant to 10-1-105, apply to and govern the national guard of this state, including all members on active duty within the state as active duty guard/reserve (AGR) personnel under Title 32 of the United States Code.

(2) The Uniform Code of Military Justice, as in effect on October 1, ~~2003~~ 2005, including the regulations, manuals, forms, precedents, and usages implementing, interpreting, and complementing the code, is adopted for use by the national guard of this state and applies, insofar as the code is not otherwise inconsistent with the constitution and laws of this state ~~and except as otherwise provided by this title, including the regulations, manuals, forms, precedents, and usages implementing, interpreting, and complementing the constitution and laws of this state, or by with a rule or regulation adopted by the department pursuant to 10-1-105~~, to the greatest extent practicable to govern the national guard of this state, including all members on active duty within the state as active duty guard/reserve (AGR) personnel under Title 32 of the United States Code when the members are serving other than in a federal capacity under Title 10 of the United States Code."

**Section 2.** Section 10-1-105, MCA, is amended to read:

1                   **"10-1-105. Rules and regulations by governor and adjutant general.** (1) The governor may prescribe  
2 rules to carry out the functions and duties under this title and the constitution of this state. ~~These rules must~~  
3 ~~conform to any applicable federal laws and regulations.~~

(2) The adjutant general may adopt rules and regulations governing the armed forces of the state and to carry out the duties of the adjutant general and the duties of the department. ~~The rules must conform to applicable federal laws and regulations."~~

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